

**CITY OF EL PASO, TEXAS**  
**AGENDA ITEM DEPARTMENT HEAD'S SUMMARY FORM**

**DEPARTMENT:**      Engineering Department

**AGENDA DATE:**      September 13, 2005

**CONTACT PERSON/PHONE:**      Rick Conner, ext. 4423

**DISTRICT(S) AFFECTED:** All

**SUBJECT:**

**AN ORDINANCE AMENDING TITLE 19 OF THE EL PASO MUNICIPAL CODE BY AMENDING CHAPTER 19.16 (IMPROVEMENT STANDARDS AND DESIGN PRINCIPLES) BY REPLACING SECTION 19.16.050.H (PRESERVATION OF ARROYOS). THE PENALTY IS AS PROVIDED FOR IN SECTION 19.04.190.**

**BACKGROUND / DISCUSSION:**

On July 5, the City Council was given a presentation by the staff and Arroyo Ad Hoc Committee. At that time, no specific action was taken on the Committee's recommendations. At that same Council Meeting, the staff requested the opportunity to prepare two ordinances concerning this matter, one to address Drainage and the other to address Preservation. We have long held that these are absolutely two separate and distinct issues, though they often involve the same areas and concerns. The Council granted us the authority to proceed along these two paths, giving sixty days to develop a Drainage Ordinance, and six months to develop a Preservation Program Ordinance.

We are now providing you with our proposal for the Drainage Ordinance portion. We feel it will return to the original intent of Section H, that being to encourage developers to leave drainage sections in their natural state. There were many draft versions of this ordinance provided to the Legal Department and others. They actually used the words "encourage", "support", "urge" and others, but Legal's consistent comment was that this wording could not be enforced, and strongly recommended that it be removed. In the long run, as it relates to drainage, this is the most effective language we could create as a compromise. We feel it provides as much encouragement to leave drainageways in their natural state as is allowed without crossing the line into illegal takings. We presented this proposed Ordinance to the Development Coordinating Committee (DCC) on August 10<sup>th</sup> and they recommended it unanimously. On August 25<sup>th</sup>, we presented it to the City Plan Commission (CPC). They voted unanimously to leave the current Section H as is. The Chair for the CPC, Gus Haddad has indicated he will be present at this Council Meeting to articulate the concerns of the CPC.

As to the status of the Preservation Program Ordinance, we are excited to say that we are moving forward and have begun the physical inventory. Chuck Kooshian in the Planning Department has made great strides and has already started making field visits to verify locations and assessments. I have gotten Professor Fritz Steiner with the University of Texas, who wrote much of Phoenix's preservation ordinances, and Laurel Arndt of the Lincoln Land Trust, to agree to help us work our way through this process. They have stated that they feel we are on exactly the right path, and strongly support our effort. In addition, Chuck is recruiting help from Alan Ragins from the National Park Service. We will be providing a presentation at this Council Meeting and further updates as we move forward.

With that in mind, we ask your guidance on this proposed Drainage ordinance.

**PRIOR COUNCIL ACTION:**

City Council previously discussed this item on July 5th.

**AMOUNT AND SOURCE OF FUNDING:**

No funding is required for the presentation and implementation of this ordinance.

**BOARD / COMMISSION ACTION:**

The Development Coordinating Committee (DCC) unanimously recommended approval of this ordinance. The City Plan Commission (CPC) voted to recommend that the current ordinance be left as is.

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\*\*\*\*\***REQUIRED AUTHORIZATION**\*\*\*\*\*

**LEGAL:** (if required) \_\_\_\_\_ **FINANCE:** (if required) \_\_\_\_\_

**DEPARTMENT HEAD:** \_\_\_\_\_

**APPROVED FOR AGENDA:**

**CITY MANAGER:** \_\_\_\_\_ **DATE:** \_\_\_\_\_

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE AMENDING TITLE 19 OF THE EL PASO MUNICIPAL CODE BY AMENDING CHAPTER 19.16 (IMPROVEMENT STANDARDS AND DESIGN PRINCIPLES) BY REPLACING SECTION 19.16.050.H (PRESERVATION OF ARROYOS). THE PENALTY IS AS PROVIDED FOR IN SECTION 19.04.190.**

**WHEREAS**, the flood hazard areas of El Paso are subject to periodic inundation, which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, and extraordinary public expenditures for flood protection and relief, all of which adversely affect the public health, safety and general welfare; and

**WHEREAS**, major flood losses are created by the cumulative effect of obstructions in floodplains when in violation of FEMA standards; and

**WHEREAS**, there is a need to control the alteration of natural protective barriers which are involved in the accommodation of flood waters and to control filling, grading, dredging and other development which may increase flood damage when not done correctly in compliance with FEMA standards; and

**WHEREAS**, the amendments herein have been afforded due review by the Development Coordinating Committee and City Plan Commission, and the El Paso City Council is of the well-informed determination that such regulations will have no negative impact upon the public health, safety, morals and general welfare of the City, and will carry out the purpose and spirit of the policies expressed in *The Plan for El Paso*.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL FOR THE CITY OF EL PASO, TEXAS:**

- 1. That Title 19 (Subdivisions), Chapter 19.16 (Subdivision Improvements and Design Principles) shall be and is hereby amended by deleting Section 19.16.050.H (Preservation of Arroyos) in its entirety and replacing it as follows:**

**19.16.050.H. Preservation of natural floodways and drainage ways**

No improvements shall be permitted within the one hundred year floodplains as defined on the flood insurance rate map (FIRM) produced by the Federal Emergency Management Agency (FEMA) unless such improvements are in compliance with FEMA rules and regulations.

- 2. Except as expressly amended herein, Title 19 (Subdivisions) of the El Paso Municipal Code shall remain in full force and effect.**

**APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 2005.**

**THE CITY OF EL PASO, TEXAS**

**ATTEST:**

\_\_\_\_\_  
John F. Cook  
Mayor

\_\_\_\_\_  
Richarda Duffy Momsen,  
City Clerk

**APPROVED AS TO FORM:**

  
\_\_\_\_\_  
Matt Watson  
Assistant City Attorney

**APPROVED AS TO CONTENT:**

  
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Rick Conner  
City Engineer